THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3239 of 2006

Dated: 21-02-2006

Between

Syed Basheerunnissa,

W/o. Syed Ameer Basha,

R/o. D.No.4/629, Patel Road,

Aravinda Nagar, Kadapa

Town and District.

...PETITIONER

AND

The Kadapa Municipal Corporation,

Rep. by its Commissioner, Kadapa,

and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in demolishing and dispossessing the petitioner from her houses bearing D.No.2/390 & 2/391 situated at Railway Station Road, Kadapa Town without following due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of aforementioned premises in Kadapa town and municipality. The Kadapa municipality has been recently

upgraded as Municipal Corporation. In view of the traffic congestion and to have free flow of traffic the Kadapa Municipal Corporation has decided to widen the roads, for which they have identified 26 roads in the entire Kadapa municipal corporation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and she has no objection for the said programme if her lands are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for her structures or the lands and without following due process of law,
are threatening the to demolish the existing structures of the petitioner for the purpose of road-widening.

The learned counsel for the petitioner further submit that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess her without following due process of law under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

February 21, 2006

DSK